

AMENDED IN SENATE APRIL 21, 2014

AMENDED IN SENATE APRIL 10, 2014

AMENDED IN SENATE MARCH 27, 2014

SENATE BILL

No. 1132

Introduced by Senators Mitchell and Leno

(Principal coauthors: Assembly Members Ammiano and Levine)

(Coauthors: Senators DeSaulnier, Jackson, Lieu, and Wolk)

(Coauthors: Assembly Members Bloom, Chesbro, Gordon, Stone, and Williams)

February 20, 2014

An act to amend Sections 3157 and 3160 of, and to repeal and add Section 3161 of, the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

SB 1132, as amended, Mitchell. Oil and gas: well stimulation treatments.

Under existing law, the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation regulates the drilling, operation, maintenance, stimulation, and abandonment of oil and gas wells in the state. The State Oil and Gas Supervisor, or supervisor, supervises the drilling, operation, maintenance, stimulation, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities related to oil and gas production within an oil and gas field regarding safety and environmental damage. Existing law requires an operator, prior to performing a well stimulating treatment, as defined, on a well, to obtain approval from the supervisor or district deputy. Under existing law, a person who violates any

prohibition specific to the regulation of oil or gas operations is guilty of a misdemeanor.

Existing law requires the Secretary of the Natural Resources Agency, on or before January 1, 2015, to cause to be conducted, and completed, an independent scientific study on well stimulation treatments, including acid well stimulation and hydraulic fracturing treatments.

This bill would revise the definition of “well stimulation treatment.” The bill would require the scientific study to *be conducted and completed no later than June 30, 2016, and to consider additional elements, including, among other things, evaluating various potential direct, indirect, and cumulative health and environmental effects of onshore and offshore well stimulation and well stimulation treatment-related activities, as specified.* The bill would also prohibit all well stimulation treatments until (1) the Secretary of the Natural Resources Agency convenes a committee to review the scientific study, as specified, (2) the Governor issues findings that specific measures are in place to ensure that well stimulation treatments do not pose a risk to, or impairment of, the public health and welfare contribute to the deterioration of environmental conditions in a way that threatens public health and welfare or to the environmental and economic sustainability of the state, and, if applicable, those findings are affirmed by judicial review, as specified. ~~The bill would require a person claiming a vested right to perform a well stimulation treatment to seek a determination from the Secretary of the Natural Resources Agency before performing the well stimulation treatment during the time period in which the prohibition is in effect. and (3) the division prepares an environmental impact report, as provided.~~ Because a violation of the bill’s requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:

1 (1) The state has failed to appropriately monitor or track well
2 stimulation activity and to study its effects.

3 (2) Well stimulation and well stimulation-related activities
4 release harmful air pollutants, including methanol, crystalline silica
5 dust, hydrochloric and hydrofluoric acid, xylene, 2-butoxyethanol,
6 naphthalene, ethylbenzene, 2-propanol, volatile organic
7 compounds, and particulate matter, which have an adverse impact
8 on the state's air quality and are detrimental to public health and
9 safety. Many parts of California already suffer from poor air
10 quality.

11 (3) Well stimulation and well stimulation-related activities
12 involve the use of hundreds of chemicals, many of which are
13 known to be carcinogenic or are otherwise harmful to human
14 health. These chemicals, along with dangerous chemicals present
15 in the oil and gas formation, threaten to contaminate groundwater
16 and surface water resources through numerous potential pathways.

17 (4) Exposure to the chemicals used in well stimulation and well
18 stimulation-related activities poses a widespread and significant
19 risk to public health and safety and the environment. Studies have
20 shown an increase in birth defects and illnesses in communities
21 located close to well stimulation operations.

22 (5) Well stimulation and well stimulation-related activities
23 involve the use of substantial amounts of freshwater, which cannot
24 be reused for other purposes once it is mixed with well stimulation
25 fluid chemicals. California is currently experiencing one of the
26 worst droughts in the state's history and faces a scarcity of
27 freshwater resources.

28 (6) Well stimulation and well stimulation-related activities result
29 in the emission of a substantial amount of greenhouse gases, such
30 as carbon dioxide and methane. The construction, drilling,
31 extraction, refinement, and end-use combustion of oil and gas
32 produce vast amounts of greenhouse gas. Furthermore, well
33 stimulation and well stimulation-related activities may lead to a
34 dramatic increase in the overall amount of recoverable oil and gas
35 in the state. The expansion of oil and gas activity and the process
36 of well stimulation both threaten to undermine the state's goal of
37 reducing greenhouse gas emissions.

38 (7) The disposal of wastewater resulting from well stimulation
39 and well stimulation-related activities in other states has been
40 linked to increased earthquake activity.

(8) Fracking and other forms of well stimulation occur disproportionately near communities consisting largely of people of color, low-income households, non-English-speaking households, and persons already experiencing high levels of water or air pollution or water scarcity.

(9) Well stimulation and well stimulation-related activities directly and indirectly harm wildlife, including species that are protected under federal and state endangered species laws.

(b) It is the intent of the Legislature in enacting this act to protect the public health and welfare of the state.

SEC. 2. Section 3157 of the Public Resources Code is amended to read:

3157. (a) For purposes of this article, “well stimulation treatment” means any treatment of a well designed to enhance oil and gas production or recovery by increasing the permeability of the formation or the flow of fluid through the well. Well stimulation treatments include, but are not limited to, hydraulic fracturing treatments and acid well stimulation treatments.

(b) Well stimulation treatments do not include steam flooding, water flooding, or cyclic steaming and do not include routine well cleanout work, routine well maintenance, routine removal of formation damage due to drilling, bottom hole pressure surveys, or routine activities that do not affect the integrity of the well or the formation.

(c) Well stimulation treatments do not include gas storage projects that are subject to Section 1724.9 of Title 14 of the California Code of Regulations, ~~but shall include well stimulation treatments applied to gas storage projects to increase the flow of gas~~ *Regulations*.

SEC. 3. Section 3160 of the Public Resources Code is amended to read:

3160. (a) The Secretary of the Natural Resources Agency shall cause to be conducted, and completed, *no later than June 30, 2016*, an independent scientific study on well stimulation treatments, including, but not limited to, hydraulic fracturing and acid well stimulation treatments. The scientific study shall evaluate the hazards and risks and potential hazards and risks that well stimulation treatments and well stimulation treatment-related activities pose to natural resources and public, occupational, and

1 environmental health and safety. The scientific study shall do all
2 of the following:

3 (1) Follow the well-established standard protocols of the
4 scientific profession, including, but not limited to, the use of
5 recognized experts, peer review, and publication. The study shall
6 be based solely on the best available scientific, health,
7 environmental, and statistical information.

8 (2) (A) Identify all onshore areas with existing and potential
9 conventional and unconventional oil and gas reserves and gas
10 storage projects where well stimulation treatments are likely to
11 spur or enable oil and gas exploration and production, or gas
12 storage.

13 (B) Identify offshore areas, within the jurisdiction of the
14 division, with existing and potential conventional and
15 unconventional oil and gas reserves where well stimulation
16 treatments are likely to spur or enable oil and gas exploration and
17 production.

18 (3) (A) Evaluate all aspects and effects of well stimulation
19 treatments, including, but not limited to, the well stimulation
20 treatment, additive and water transportation to and from the well
21 site, mixing, storage, and handling of the well stimulation treatment
22 fluids and additives onsite, the use and potential for use of nontoxic
23 additives and the use or reuse of treated or produced water in well
24 stimulation treatment fluids, and flowback fluids and the handling,
25 treatment, and disposal of flowback fluids and other materials, if
26 any, generated by the treatment. Specifically, the potential for the
27 use of recycled water in well stimulation treatments, including
28 appropriate water quality requirements and available treatment
29 technologies, shall be evaluated. Well stimulation treatments
30 include, but are not limited to, hydraulic fracturing and acid well
31 stimulation treatments.

32 (B) Review and evaluate acid matrix stimulation treatments,
33 including the range of acid volumes applied per treated foot and
34 total acid volumes used in treatments, types of acids, acid
35 concentration, and other chemicals used in the treatments.

36 (C) Evaluate all potential direct, indirect, and cumulative health
37 and environmental effects of onshore well stimulation treatments
38 and well stimulation treatment-related activities.

39 (D) Evaluate all potential direct, indirect, and cumulative health
40 and environmental effects of offshore well stimulation treatments

1 and well stimulation treatment-related activities that are within the
2 jurisdiction of the division.

3 (E) Evaluate all direct, indirect, and cumulative health and
4 environmental effects of the full lifecycle of oil and gas
5 exploration, development, and production, including flowback
6 fluids and other byproducts that would result from allowing well
7 stimulation treatments within the state.

8 (F) Evaluate the extent of the increase in oil and gas
9 development, refining processes, and end-use combustion that
10 would result from allowing well stimulation treatments within the
11 state.

12 (4) (A) Consider potential water contamination, including
13 groundwater and surface water, potential depletion of water
14 resources, potential effects on water sustainability, and the ultimate
15 disposition, transport, transformation, and toxicology of well
16 stimulation treatments, including acid well stimulation fluids,
17 hydraulic fracturing fluids, and waste hydraulic fracturing fluids,
18 and acid well stimulation in the environment.

19 (B) Consider surface contamination, potential noise and light
20 pollution, as well as actual and potential induced seismicity.

21 (C) Consider atmospheric emissions, including potential
22 greenhouse gas emissions, the potential degradation of air quality,
23 and the potential impacts of well stimulation and increased oil and
24 gas activity on the state's efforts to meet its greenhouse gas
25 reduction targets under the California Global Warming Solutions
26 Act of 2006 (Division 25.5 (commencing with Section 38500) of
27 the Health and Safety Code).

28 (5) Identify and evaluate the geologic features present in the
29 vicinity of a well, including the well bore, that should be taken
30 into consideration in the design of a proposed well stimulation
31 treatment.

32 (6) Identify and evaluate all of the following, *as they relate to*
33 *well stimulation*:

34 (A) The potential impacts of well stimulation treatments on
35 private property, including home values and direct damage to
36 property and land.

37 (B) The potential human health risk for each chemical used in
38 well stimulation treatments.

39 (C) The potential economic costs and harms of increased oil
40 and gas operations in the state as a result of well stimulation

1 treatments, including, but not limited to, the resulting economic
2 costs to the agricultural sector and the tourism industry.

3 (D) The potential effects on communities most likely to be
4 negatively affected by the impacts of well stimulation, including,
5 but not limited to, all of the following:

6 (i) Communities consisting largely of people of color.

7 (ii) Communities consisting largely of low-income individuals.

8 (iii) Communities consisting largely of non-English-speaking
9 households.

10 (iv) Communities already experiencing high levels of water or
11 air pollution, or water scarcity.

12 (E) Potential harm to the public health and welfare of the state's
13 residents and the state's environment, both cumulatively and
14 specific to each region where well stimulation treatments may
15 occur.

16 (F) The potential effect of increased traffic due to increased oil
17 and gas activity as a result of well stimulation treatments, including
18 air emissions from vehicle traffic, and road expansion and
19 deterioration.

20 (G) The potential effect on pipeline infrastructure due to
21 increased oil and gas activity as a result of well stimulation
22 treatments, including potential pipeline leakage.

23 (H) Potential impacts on wildlife, including harm to endangered
24 or threatened species, native plants, and habitat, including habitat
25 fragmentation.

26 (I) Whether existing emergency planning, procedures, and
27 resources adequately and fully ensure public safety in the event
28 of an emergency.

29 (J) Potential risks to worker safety.

30 (7) Include a hazard assessment and risk analysis addressing
31 occupational and environmental exposures to well stimulation
32 treatments, including hydraulic fracturing treatments, hydraulic
33 fracturing treatment-related processes, acid well stimulation
34 treatments, acid well stimulation treatment-related processes, and
35 the corresponding impacts on public health and safety with the
36 participation of the Office of Environmental Health Hazard
37 Assessment.

38 (8) Clearly identify where additional information is necessary
39 to inform and improve the analyses.

~~(b) (1) Prior to the issuance of the final scientific study, the division shall conduct public hearings throughout the state to obtain additional public comment. Public notice of a hearing shall be provided at least 30 days prior to any hearing.~~

~~(2) All relevant notices and hearing documents shall be made available in non-English languages necessary to inform the public of the opportunity to comment and to accommodate public participation.~~

~~(e)~~

(b) The Secretary of the Natural Resources Agency shall notify the Joint Legislative Budget Committee and the chairs of the Assembly Natural Resources, Senate Environmental Quality, and Senate Natural Resources and Water Committees on the progress of the independent scientific study on well stimulation and related activities. The first progress report shall be provided to the Legislature on or before April 1, 2014, and progress reports shall continue every four months thereafter until the independent study is completed, including a peer review of the study by independent scientific experts.

~~(d)~~

(c) (1) (A) On or before January 1, 2015, the division, in consultation with the Department of Toxic Substances Control, the State Air Resources Board, the State Water Resources Control Board, the Department of Resources Recycling and Recovery, and any local air districts and regional water quality control boards in areas where well stimulation treatments, including acid well stimulation treatments and hydraulic fracturing treatments may occur, shall adopt rules and regulations specific to well stimulation treatments. The rules and regulations shall include, but are not limited to, revisions, as needed, to the rules and regulations governing construction of wells and well casings to ensure integrity of wells, well casings, and the geologic and hydrologic isolation of the oil and gas formation during and following well stimulation treatments, and full disclosure of the composition and disposition of well stimulation fluids, including, but not limited to, hydraulic fracturing fluids, acid well stimulation fluids, and flowback fluids.

(B) The rules and regulations shall additionally include provisions for an independent entity or person to perform the notification requirements pursuant to paragraph (6) of subdivision (f) (e), for the operator to provide for baseline and followup water

1 testing upon request as specified in paragraph (7) of subdivision
2 ~~(f)~~ (e).

3 (C) (i) In order to identify the acid matrix stimulation treatments
4 that are subject to this section, the rules and regulations shall
5 establish threshold values for acid volume applied per treated foot
6 of any individual stage of the well or for total acid volume of the
7 treatment, or both, based upon a quantitative assessment of the
8 risks posed by acid matrix stimulation treatments that exceed the
9 specified threshold value or values in order to prevent, as far as
10 possible, damage to life, health, property, and natural resources
11 pursuant to Section 3106.

12 (ii) On or before January 1, 2020, the division shall review and
13 evaluate the threshold values for acid volume applied per treated
14 foot and total acid volume of the treatment, based upon data
15 collected in the state, for acid matrix stimulation treatments. The
16 division shall revise the values through the regulatory process, if
17 necessary, based upon the best available scientific information,
18 including the results of the independent scientific study pursuant
19 to subparagraph (B) of paragraph (3) of subdivision (a).

20 (2) Full disclosure of the composition and disposition of well
21 stimulation fluids, including, but not limited to, hydraulic fracturing
22 fluids and acid stimulation treatment fluids, shall, at a minimum,
23 include:

24 (A) The date of the well stimulation treatment.

25 (B) A complete list of the names, Chemical Abstract Service
26 (CAS) numbers, and maximum concentration, in percent by mass,
27 of each and every chemical constituent of the well stimulation
28 treatment fluids used. If a CAS number does not exist for a
29 chemical constituent, the well owner or operator may provide
30 another unique identifier, if available.

31 (C) The trade name, the supplier, concentration, and a brief
32 description of the intended purpose of each additive contained in
33 the well stimulation treatment fluid.

34 (D) The total volume of base fluid used during the well
35 stimulation treatment, and the identification of whether the base
36 fluid is water suitable for irrigation or domestic purposes, water
37 not suitable for irrigation or domestic purposes, or a fluid other
38 than water.

39 (E) The source, volume, and specific composition and
40 disposition of all water, including, but not limited to, all water

1 used as base fluid during the well stimulation treatment and
2 recovered from the well following the well stimulation treatment
3 that is not otherwise reported as produced water pursuant to Section
4 3227. Any repeated reuse of treated or untreated water for well
5 stimulation treatments and well stimulation treatment-related
6 activities shall be identified.

7 (F) The specific composition and disposition of all well
8 stimulation treatment fluids, including waste fluids, other than
9 water.

10 (G) Any radiological components or tracers injected into the
11 well as part of, or in order to evaluate, the well stimulation
12 treatment, a description of the recovery method, if any, for those
13 components or tracers, the recovery rate, and specific disposal
14 information for recovered components or tracers.

15 (H) The radioactivity of the recovered well stimulation fluids.

16 (I) The location of the portion of the well subject to the well
17 stimulation treatment and the extent of the fracturing or other
18 modification, if any, surrounding the well induced by the treatment.

19 (e)

20 (d) (1) Through the consultation process described in paragraph
21 (1) of subdivision ~~(d)~~ (c), the division shall collaboratively identify
22 and delineate the existing statutory authority and regulatory
23 responsibility relating to well stimulation treatments and well
24 stimulation treatment-related activities of the Department of Toxic
25 Substances Control, the State Air Resources Board, any local air
26 districts, the State Water Resources Control Board, the Department
27 of Resources Recycling and Recovery, any regional water quality
28 control board, and other public entities, as applicable. This shall
29 specify how the respective authority, responsibility, and notification
30 and reporting requirements associated with well stimulation
31 treatments and well stimulation treatment-related activities are
32 divided among each public entity.

33 (2) On or before January 1, 2015, the division shall enter into
34 formal agreements with the Department of Toxic Substances
35 Control, the State Air Resources Board, any local air districts where
36 well stimulation treatments may occur, the State Water Resources
37 Control Board, the Department of Resources Recycling and
38 Recovery, and any regional water quality control board where well
39 stimulation treatments may occur, clearly delineating respective
40 authority, responsibility, and notification and reporting

1 requirements associated with well stimulation treatments and well
2 stimulation treatment-related activities, including air and water
3 quality monitoring, in order to promote regulatory transparency
4 and accountability.

5 (3) The agreements under paragraph (2) shall specify the
6 appropriate public entity responsible for air and water quality
7 monitoring and the safe and lawful disposal of materials in
8 landfills, include trade secret handling protocols, if necessary, and
9 provide for ready public access to information related to well
10 stimulation treatments and related activities.

11 (4) Regulations, if necessary, shall be revised appropriately to
12 incorporate the agreements under paragraph (2).

13 (f)

14 (e) (1) Notwithstanding any other law or regulation, prior to
15 performing a well stimulation treatment, the operator shall apply
16 for a permit to perform a well stimulation treatment with the
17 supervisor or district deputy. The well stimulation treatment permit
18 application shall contain the pertinent data the supervisor requires
19 on printed forms supplied by the division or on other forms
20 acceptable to the supervisor. The information provided in the well
21 stimulation treatment permit application shall include, but is not
22 limited to, the following:

23 (A) The well identification number and location.

24 (B) The time period during which the well stimulation treatment
25 is planned to occur.

26 (C) A water management plan that shall include all of the
27 following:

28 (i) An estimate of the amount of water to be used in the
29 treatment. Estimates of water to be recycled following the well
30 stimulation treatment may be included.

31 (ii) The anticipated source of the water to be used in the
32 treatment.

33 (iii) The disposal method identified for the recovered water in
34 the flowback fluid from the treatment that is not produced water
35 included in the statement pursuant to Section 3227.

36 (D) A complete list of the names, Chemical Abstract Service
37 (CAS) numbers, and estimated concentrations, in percent by mass,
38 of each and every chemical constituent of the well stimulation
39 fluids anticipated to be used in the treatment. If a CAS number

1 does not exist for a chemical constituent, the well owner or operator
2 may provide another unique identifier, if available.

3 (E) The planned location of the well stimulation treatment on
4 the well bore, the estimated length, height, and direction of the
5 induced fractures or other planned modification, if any, and the
6 location of existing wells, including plugged and abandoned wells,
7 that may be impacted by these fractures and modifications.

8 (F) A groundwater monitoring plan. Required groundwater
9 monitoring in the vicinity of the well subject to the well stimulation
10 treatment shall be satisfied by one of the following:

11 (i) The well is located within the boundaries of an existing oil
12 or gas field-specific or regional monitoring program developed
13 pursuant to Section 10783 of the Water Code.

14 (ii) The well is located within the boundaries of an existing oil
15 or gas field-specific or regional monitoring program developed
16 and implemented by the well owner or operator meeting the model
17 criteria established pursuant to Section 10783 of the Water Code.

18 (iii) Through a well-specific monitoring plan implemented by
19 the owner or operator meeting the model criteria established
20 pursuant to Section 10783 of the Water Code, and submitted to
21 the appropriate regional water board for review.

22 (G) The estimated amount of treatment-generated waste
23 materials that are not reported in subparagraph (C) and an identified
24 disposal method for the waste materials.

25 (2) (A) At the supervisor's discretion, and if applied for
26 concurrently, the well stimulation treatment permit described in
27 this section may be combined with the well drilling and related
28 operation notice of intent required pursuant to Section 3203 into
29 a single combined authorization. The portion of the combined
30 authorization applicable to well stimulation shall meet all of the
31 requirements of a well stimulation treatment permit pursuant to
32 this section.

33 (B) Where the supervisor determines that the activities proposed
34 in the well stimulation treatment permit or the combined
35 authorization have met all of the requirements of Division 13
36 (commencing with Section 21000), and have been fully described,
37 analyzed, evaluated, and mitigated, no additional review or
38 mitigation shall be required.

1 (C) The time period available for approval of the portion of the
2 combined authorization applicable to well stimulation is subject
3 to the terms of this section, and not Section 3203.

4 (3) (A) The supervisor or district deputy shall review the well
5 stimulation treatment permit application and may approve the
6 permit if the application is complete. An incomplete application
7 shall not be approved.

8 (B) A well stimulation treatment or repeat well stimulation
9 treatment shall not be performed on any well without a valid permit
10 that the supervisor or district deputy has approved.

11 (C) In considering the permit application, the supervisor or
12 district deputy shall evaluate the quantifiable risk of the well
13 stimulation treatment.

14 (4) The well stimulation treatment permit shall expire one year
15 from the date that the permit is issued.

16 (5) Within five business days of issuing a permit to perform a
17 well stimulation treatment, the division shall provide a copy of the
18 permit to the appropriate regional water quality control board or
19 boards and to the local planning entity where the well, including
20 its subsurface portion, is located. The division shall also post the
21 permit on the publicly accessible portion of its Internet Web site
22 within five business days of issuing a permit.

23 (6) (A) It is the policy of the state that a copy of the approved
24 well stimulation treatment permit and information on the available
25 water sampling and testing be provided to every tenant of the
26 surface property and every surface property owner or authorized
27 agent of that owner whose property line location is one of the
28 following:

29 (i) Within a 1,500 foot radius of the wellhead.

30 (ii) Within 500 feet from the horizontal projection of all
31 subsurface portions of the designated well to the surface.

32 (B) (i) The well owner or operator shall identify the area
33 requiring notification and shall contract with an independent entity
34 or person who is responsible for, and shall perform, the notification
35 required pursuant to subparagraph (A).

36 (ii) The independent entity or person shall identify the
37 individuals notified, the method of notification, the date of the
38 notification, and a list of those notified, and shall provide this
39 information to the division.

1 (iii) The performance of the independent entity or person shall
2 be subject to review and audit by the division.

3 (C) A well stimulation treatment shall not commence before 30
4 calendar days after the permit copies pursuant to subparagraph (A)
5 are provided.

6 (7) (A) A property owner notified pursuant to paragraph (6)
7 may request water quality sampling and testing from a designated
8 qualified contractor on any water well suitable for drinking or
9 irrigation purposes and on any surface water suitable for drinking
10 or irrigation purposes as follows:

11 (i) Baseline measurements prior to the commencement of the
12 well stimulation treatment.

13 (ii) Followup measurements after the well stimulation treatment
14 on the same schedule as the pressure testing of the well casing of
15 the treated well.

16 (B) The State Water Resources Control Board shall designate
17 one or more qualified independent third-party contractor or
18 contractors that adhere to board-specified standards and protocols
19 to perform the water sampling and testing. The well owner or
20 operator shall pay for the sampling and testing. The sampling and
21 testing performed shall be subject to audit and review by the State
22 Water Resources Control Board or an applicable regional water
23 quality control board, as appropriate.

24 (C) The results of the water testing shall be provided to the
25 division, appropriate regional water quality control board, and the
26 property owner or authorized agent. A tenant notified pursuant to
27 paragraph (6) shall receive information on the results of the water
28 testing to the extent authorized by his or her lease and, where the
29 tenant has lawful use of the groundwater or surface water identified
30 in subparagraph (A), the tenant may independently contract for
31 similar groundwater or surface water testing.

32 (8) The division shall retain a list of the entities and property
33 owners notified pursuant to paragraphs (5) and (6).

34 (9) The operator shall provide notice to the division at least 72
35 hours prior to the actual start of the well stimulation treatment in
36 order for the division to witness the treatment.

37 ~~(g)~~

38 (f) If a well stimulation treatment is performed, a supplier that
39 performs any part of the treatment or provides additives directly
40 to the operator for a well stimulation treatment shall furnish the

operator with information suitable for public disclosure needed for the operator to comply with subdivision—~~(h)~~ (g). This information shall be provided as soon as possible but no later than 30 days following the conclusion of the well stimulation treatment.

~~(h)~~

(g) (1) Within 60 days following cessation of a well stimulation treatment, the operator shall post or cause to be posted to an Internet Web site, designated or maintained by the division and accessible to the public, all of the well stimulation fluid composition and disposition information required to be collected pursuant to the rules and regulations adopted under subdivision ~~(d)~~ (c), including well identification number and location. This shall include the collected water quality data, which the operator shall report electronically to the State Water Resources Control Board.

(2) (A) The division shall develop an Internet Web site for operators to report the information required under this section. The Internet Web site shall be capable of organizing the reported information in a format, such as a spreadsheet, that allows the public to easily search and aggregate, to the extent practicable, each type of information required to be collected pursuant to subdivision—~~(d)~~ (c) using search functions on that Internet Web site. The Internet Web site shall be functional within two years of the Department of Technology's approval of a feasibility study report or appropriation authority to fund the development of the Internet Web site, whichever occurs latest, but no later than January 1, 2016.

(B) The division may direct reporting to an alternative Internet Web site developed by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission in the interim until approval or appropriate authority pursuant to subparagraph (A) occur. Prior to the implementation of the division's Internet Web site, the division shall obtain the data reported by operators to the alternative Internet Web site and make it available in an organized electronic format to the public no later than 15 days after it is reported to the alternative Internet Web site.

~~(i)~~

(h) The operator is responsible for compliance with this section.

~~(j)~~

(i) (1) All geologic features within a distance reflecting an appropriate safety factor of the fracture zone for well stimulation treatments that fracture the formation and that have the potential to either limit or facilitate the migration of fluids outside of the fracture zone shall be identified and added to the well history. Geologic features include seismic faults identified by the California Geologic Survey.

(2) For the purposes of this section, the “fracture zone” is defined as the volume surrounding the well bore where fractures were created or enhanced by the well stimulation treatment. The safety factor shall be at least five and may vary depending upon geologic knowledge.

(3) The division shall review the geologic features important to assessing well stimulation treatments identified in the independent study pursuant to paragraph (5) of subdivision (a). Upon completion of the review, the division shall revise the regulations governing the reporting of geologic features pursuant to this subdivision accordingly.

~~(k)~~

(j) (1) Public disclosure of well stimulation treatment fluid information claimed to contain trade secrets is governed by Section 1060 of the Evidence Code, or the Uniform Trade Secrets Act (Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code), and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(2) Notwithstanding any other law or regulation, none of the following information shall be protected as a trade secret:

(A) The identities of the chemical constituents of additives, including CAS identification numbers.

(B) The concentrations of the additives in the well stimulation treatment fluids.

(C) Any air or other pollution monitoring data.

(D) Health and safety data associated with well stimulation treatment fluids.

(E) The chemical composition of the flowback fluid.

(3) If a trade secret claim is invalid or invalidated, the division shall release the information to the public by revising the information released pursuant to subdivision ~~(h)~~ (g). The supplier shall notify the division of any change in status within 30 days.

1 (4) (A) If a supplier believes that information regarding a
2 chemical constituent of a well stimulation fluid is a trade secret,
3 the supplier shall nevertheless disclose the information to the
4 division in conjunction with a well stimulation treatment permit
5 application, if not previously disclosed, within 30 days following
6 cessation of well stimulation on a well, and shall notify the division
7 in writing of that belief.

8 (B) A trade secret claim shall not be made after initial disclosure
9 of the information to the division.

10 (C) To comply with the public disclosure requirements of this
11 section, the supplier shall indicate where the trade secret
12 information has been withheld and provide substitute information
13 for public disclosure. The substitute information shall be a list, in
14 any order, of the chemical constituents of the additive, including
15 CAS identification numbers. The division shall review and approve
16 the supplied substitute information.

17 (D) This subdivision does not permit a supplier to refuse to
18 disclose the information required pursuant to this section to the
19 division.

20 (5) In order to substantiate the trade secret claim, the supplier
21 shall provide information to the division that shows all of the
22 following:

23 (A) The extent to which the trade secret information is known
24 by the supplier's employees, and others involved in the supplier's
25 business and outside the supplier's business.

26 (B) The measures taken by the supplier to guard the secrecy of
27 the trade secret information.

28 (C) The value of the trade secret information to the supplier and
29 its competitors.

30 (D) The amount of effort or money the supplier expended
31 developing the trade secret information and the ease or difficulty
32 with which the trade secret information could be acquired or
33 duplicated by others.

34 (6) If the division determines that the information provided in
35 support of a request for trade secret protection pursuant to
36 paragraph (5) is incomplete, the division shall notify the supplier
37 and the supplier shall have 30 days to complete the submission.
38 An incomplete submission does not meet the substantive criteria
39 for trade secret designation.

(7) If the division determines that the information provided in support of a request for trade secret protection does not meet the substantive criteria for trade secret designation, the department shall notify the supplier by certified mail of its determination. The division shall release the information to the public, but not earlier than 60 days after the date of mailing the determination, unless, prior to the expiration of the 60-day period, the supplier obtains an action in an appropriate court for a declaratory judgment that the information is subject to protection or for a preliminary injunction prohibiting disclosure of the information to the public and provides notice to the division of the court order.

(8) The supplier is not required to disclose the trade secret information to the operator.

(9) Upon receipt of a request for the release of trade secret information to the public, the following procedure applies:

(A) The division shall notify the supplier of the request in writing by certified mail, return receipt requested.

(B) The division shall release the information to the public, but not earlier than 60 days after the date of mailing the notice of the request for information, unless, prior to the expiration of the 60-day period, the supplier obtains an action in an appropriate court for a declaratory judgment that the information is subject to protection or for a preliminary injunction prohibiting disclosure of the information to the public and provides notice to the division of that action.

(10) The division shall develop a timely procedure to provide trade secret information in the following circumstances:

(A) To an officer or employee of the division, the state, local governments, including, but not limited to, local air districts, or the United States, in connection with the official duties of that officer or employee, to a health professional under any law for the protection of health, or to contractors with the division or other government entities and their employees if, in the opinion of the division, disclosure is necessary and required for the satisfactory performance of a contract, for performance of work, or to protect health and safety.

(B) To a health professional in the event of an emergency or to diagnose or treat a patient.

(C) In order to protect public health, to any health professional, toxicologist, or epidemiologist who is employed in the field of

1 public health and who provides a written statement of need. The
2 written statement of need shall include the public health purposes
3 of the disclosure and shall explain the reason the disclosure of the
4 specific chemical and its concentration is required.

5 (D) A health professional may share trade secret information
6 with other persons as may be professionally necessary, in order to
7 diagnose or treat a patient, including, but not limited to, the patient
8 and other health professionals, subject to state and federal laws
9 restricting disclosure of medical records including, but not limited
10 to, Chapter 2 (commencing with Section 56.10) of Part 2.6 of
11 Division 1 of the Civil Code.

12 (E) For purposes of this paragraph, “health professional” means
13 any person licensed or certified pursuant to Division 2
14 (commencing with Section 500) of the Business and Professions
15 Code, the Osteopathic Initiative Act, the Chiropractic Initiative
16 Act, or the Emergency Medical Services System and the
17 Prehospital Emergency Medical Care Personnel Act (Division 2.5
18 (commencing with Section 1797) of the Health and Safety Code).

19 (F) A person in possession of, or with access to, confidential
20 trade secret information pursuant to the provisions of this
21 subdivision may disclose this information to any person who is
22 authorized to receive it. A written confidentiality agreement shall
23 not be required.

24 ~~(H)~~

25 (k) A well granted confidential status pursuant to Section 3234
26 shall not be required to disclose well stimulation treatment fluid
27 information pursuant to subdivision-~~(h)~~ (g) until the confidential
28 status of the well ceases. Notwithstanding the confidential status
29 of a well, it is public information that a well will be or has been
30 subject to a well stimulation treatment.

31 ~~(m)~~

32 (l) The division shall perform random periodic spot check
33 inspections to ensure that the information provided on well
34 stimulation treatments is accurately reported, including that the
35 estimates provided prior to the commencement of the well
36 stimulation treatment are reasonably consistent with the well
37 history.

38 ~~(n)~~

39 (m) Where the division shares jurisdiction over a well or the
40 well stimulation treatment on a well with a federal entity, the

1 division's rules and regulations shall apply in addition to all
2 applicable federal laws and regulations.

3 ~~(e)~~

4 (n) This article does not relieve the division or any other agency
5 from complying with any other provision of existing laws,
6 regulations, and orders.

7 ~~(p)~~

8 (o) Well stimulation treatments used for routine maintenance
9 of wells associated with underground storage facilities where
10 natural gas is injected into and withdrawn from depleted or partially
11 depleted oil or gas reservoirs pursuant to subdivision (a) of Section
12 3403.5 are not subject to this section.

13 SEC. 4. Section 3161 of the Public Resources Code is repealed.

14 SEC. 5. Section 3161 is added to the Public Resources Code,
15 to read:

16 3161. (a) All well stimulation treatments shall be prohibited
17 until the scientific study pursuant to Section 3160 is completed
18 and all of the requirements of this section are met.

19 (b) No later than six months after the scientific study is
20 complete, the Secretary of the Natural Resources Agency shall
21 convene a committee to review the scientific study. The committee
22 shall include a representative from all of the following:

23 (1) The Natural Resources Agency.

24 (2) The California Environmental Protection Agency.

25 (3) The State Air Resources ~~Control~~ Board.

26 (4) The State Water Resources Control Board.

27 (5) The State Department of Public Health.

28 (c) (1) After reviewing the scientific study as required under
29 subdivision (b), the committee shall issue a tentative report,
30 available to the public, evaluating the scientific study using the
31 best scientific, health, environmental, and statistical information
32 available, that shall include, but is not limited to, all of the
33 following findings:

34 (A) Whether the scientific study is based solely on the best
35 scientific, health, environmental, and statistical information
36 available, and meets all of the requirements of subdivision (a) of
37 Section 3160.

38 (B) Whether the regulations adopted pursuant to subdivision
39 ~~(d)~~ (c) of Section 3160 are sufficient to ensure that the damage
40 and risks associated with well stimulation treatments, and the

1 increased oil and gas development as a result of these treatments,
2 ~~do not pose a risk to, or impairment of, the public health and~~
3 ~~welfare contribute to the deterioration of environmental conditions~~
4 ~~in a way that threatens public health and welfare~~ or the
5 environmental and economic sustainability of the state.

6 (C) Whether there are measures in place to ensure that well
7 stimulation treatments, and the increased oil and gas development
8 as a result of these treatments, will not impede progress for
9 achieving the greenhouse gas reduction targets under the California
10 Global Warming Solutions Act of 2006 (Division 25.5
11 (commencing with Section 38500) of the Health and Safety Code).

12 (D) Whether other specific measures are in place to ensure that
13 well stimulation treatments within the state ~~do not pose a risk to,~~
14 ~~or impairment of, the public health and welfare contribute to the~~
15 ~~deterioration of environmental conditions in a way that threatens~~
16 ~~public health and welfare~~ or the environmental and economic
17 sustainability of the state.

18 (2) The public shall have 60 days to submit comments to the
19 committee regarding the tentative report and the committee shall
20 give full consideration to all of the comments received.

21 (3) (A) If the findings in the report conclude that well
22 stimulation treatments ~~pose a risk to, or impairment of, the public~~
23 ~~health and welfare contribute to the deterioration of environmental~~
24 ~~conditions in a way that threatens public health and welfare~~ or to
25 the environmental and economic sustainability of the state, the
26 committee may require an additional study to address any areas
27 of concern and the prohibition on well stimulation treatments
28 pursuant to subdivision (a) shall remain in effect.

29 (B) If the findings in the report conclude that well stimulation
30 treatments ~~do not pose a risk to, or impairment of, the public health~~
31 ~~and welfare contribute to the deterioration of environmental~~
32 ~~conditions in a way that threatens public health and welfare~~ or to
33 the environmental and economic sustainability of the state, the
34 committee shall certify the report as final.

35 (d) Upon certification by the committee, the report shall be
36 provided to the Governor and the appropriate committees of the
37 Legislature.

38 (e) (1) Upon receipt of the report, the Governor shall determine
39 whether specific measures are in place to ensure that well
40 stimulation treatments within the state ~~do not pose a risk to, or~~

1 ~~impairment of, the public health and welfare contribute to the~~
2 ~~deterioration of environmental conditions in a way that threatens~~
3 ~~public health and welfare~~ or to the environmental and economic
4 sustainability of the state, and shall provide specific findings of
5 this determination to the Legislature.

6 (2) If the Governor's findings conclude that there are not specific
7 measures in place as described in paragraph (1), the prohibition
8 on well stimulation treatments pursuant to subdivision (a) shall
9 remain in effect.

10 (3) If the Governor's findings conclude that there are specific
11 measures in place as described in paragraph (1), the prohibition
12 of well stimulation treatments pursuant to subdivision (a) shall
13 end on the date provided in subdivision ~~(f)~~ (g).

14 ~~(4) A person who submitted comments to the committee or~~
15 ~~provided testimony at a hearing held by the division pursuant to~~
16 ~~subdivision (b) of Section 3160 may seek judicial review of the~~
17 ~~Governor's findings within 90 days after the date that the findings~~
18 ~~are issued. The~~

19 (4) The Governor's findings shall be considered final when all
20 pending legal challenges are resolved and the Governor's findings
21 based on clear and convincing evidence are affirmed.

22 (f) (1) *The division shall prepare an environmental impact*
23 *report (EIR) pursuant to the California Environmental Quality*
24 *Act (Division 13 (commencing with Section 21000)), in order to*
25 *provide the public with detailed information regarding any*
26 *potential environmental impacts of well stimulation in the state.*

27 (2) *Any environmental review conducted by the division shall*
28 *fully comply with all of the following requirements:*

29 (A) *The EIR shall be certified by the division as the lead agency,*
30 *no later than July 1, 2015.*

31 (B) *The EIR shall address the issue of activities that may be*
32 *conducted as defined in Section 3157 and that may occur at oil*
33 *wells in the state existing prior to, and after, the effective date of*
34 *this section.*

35 (C) *The EIR shall not conflict with an EIR conducted by a local*
36 *lead agency that is certified on or before July 1, 2015. This*
37 *subparagraph does not prohibit a local lead agency from*
38 *conducting its own EIR.*

39 ~~(f)~~

1 (g) (1) This section shall become inoperative 90 days after the
2 date the Governor issues the findings pursuant to paragraph (3) of
3 subdivision (e) or, if a judicial review pursuant to paragraph (4)
4 of subdivision (e) is requested, on the date the judicial decision
5 affirming the Governor's findings is considered final and
6 nonappealable.

7 (2) This section shall be repealed on January 1 immediately
8 following the date it becomes inoperative under paragraph (1).

9 ~~(g) (1)~~

10 (h) This section shall not be interpreted to *does not* impair or
11 infringe any vested right to conduct or continue to conduct a well
12 stimulation treatment *existing property rights or interests*.

13 (2) A person claiming a vested right to perform a well
14 stimulation treatment has the burden of proof, by clear and
15 convincing evidence, that he or she had a vested right to perform
16 a well stimulation before January 1, 2015. The past or current
17 ownership or operation of an existing well does not create a vested
18 right for future well stimulation. The occurrence of past well
19 stimulation events does not create a vested right for future well
20 stimulation. The claimant shall submit to the Secretary of the
21 Natural Resources Agency all necessary evidence to demonstrate
22 a vested right, including, at minimum, all of the following:

23 (A) All necessary discretionary permits have been obtained and
24 the activity will not result in an intensification or expansion of the
25 permitted activity.

26 (B) The completion of substantial construction work in
27 preparation for well stimulation.

28 (C) The incurrence of substantial costs and liabilities in good
29 faith reliance on the division's approval granted before January 1,
30 2015.

31 (D) Any other information deemed necessary by the secretary
32 to determine whether a vested right exists.

33 (3) A person claiming a vested right may request a public
34 hearing before the Secretary of the Natural Resources Agency.

35 (4) If a hearing is requested, the Natural Resources Agency shall
36 notify affected local governments and all known interested parties
37 of the date, time, and location of the public hearing and post the
38 same information to a publicly accessible part of the agency's
39 Internet Web site at least 20 days in advance of the hearing. Any

1 member of the public may submit comments or evidence regarding
2 the existence of a vested right.

3 ~~(5) A person claiming a vested right shall not perform a well~~
4 ~~stimulation treatment until the Secretary of the Natural Resources~~
5 ~~Agency makes a final determination that the person has a vested~~
6 ~~right.~~

7 ~~(6) If the Secretary of the Natural Resources Agency determines,~~
8 ~~by clear and convincing evidence, that a vested right exists, the~~
9 ~~prohibition on well stimulation with respect to the claimant shall~~
10 ~~apply after a reasonable amortization period, to be determined by~~
11 ~~the secretary. If the secretary determines that there is no clear and~~
12 ~~convincing evidence that a vested right exists, the secretary shall~~
13 ~~deny the claim.~~

14 ~~(7) (A) Any interested party may challenge the Secretary of~~
15 ~~the Natural Resources Agency's determination that a vested right~~
16 ~~exists in superior court.~~

17 ~~(B) The well owner or operator may challenge the secretary's~~
18 ~~determination that a vested right does not exist in the superior~~
19 ~~court.~~

20 ~~(h)~~

21 ~~(i) The division shall not approve as complete any Interim Well~~
22 ~~Stimulation Treatment Notice forms, or make any other approval~~
23 ~~to authorize a well stimulation treatment, on or after January 1,~~
24 ~~2015.~~

25 ~~(i)~~

26 ~~(j) This section does not preempt local government's land use~~
27 ~~authority to regulate or prohibit oil and gas operations, including~~
28 ~~well stimulation treatments and related activities.~~

29 SEC. 6. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.